

**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF       )  
DELMARVA POWER & LIGHT COMPANY       )  
FOR APPROVAL OF MODIFICATIONS TO       )       PSC DOCKET NO. 17-1013  
ITS GAS COST RATES       )  
(FILED AUGUST 29, 2017)       )

**ORDER NO. 9214**

**AND NOW**, this 8<sup>th</sup> day of May 2018, the Delaware Public Service Commission ("Commission") determines and orders the following:

**WHEREAS**, on August 29, 2017, Delmarva Power & Light Company ("Delmarva" or "the Company") filed with the Commission the above-captioned application (the "Application") seeking approval to change its Gas Cost Rates ("GCR") effective for usage on or after November 1, 2017, with proration, as follows: (1) revise the GCR demand and commodity charge applicable to Service Classifications MVG and LVG; (2) revise the volumetrically applied GCR factors applicable to the RG, GG, GL, and non-electing MVG Service Classifications; (3) approve the proposed Balancing Charge and Pressure Support Fee for the November 2017 - October 2018 GCR period; and (4) approve changes to Tariff Leaf Nos. 37, 37a, 38 and 39 of the Company's tariff to become effective on November 1, 2017;

**WHEREAS**, in Order No. 9122 dated September 28, 2017, the Commission opened this docket and allowed the proposed rates to become effective on a temporary basis, subject to refund, for gas usage on and after November 1, 2017; and

**WHEREAS**, by that same order, the Commission ordered that notice of the proceeding be published, that an evidentiary hearing regarding the Application would be conducted at a regularly-scheduled meeting, and that interested persons or entities be afforded the opportunity to file objections or written comments on or before November 27, 2017; and

**WHEREAS**, the Company caused notice to be published regarding the proceeding in *The News Journal* on October 3, 2017; and

**WHEREAS**, the Delaware Division of the Public Advocate ("DPA") filed its Statutory Notice of Intervention on September 1, 2017, but no other parties petitioned for leave to intervene or filed any comments or objections; and

**WHEREAS**, the Company caused notice to be published regarding the April 24, 2018 evidentiary hearing in *The News Journal* on March 29, 2018; and

**WHEREAS**, the Commission conducted the duly-noticed public evidentiary hearing for this matter on April 24, 2018; and

**WHEREAS**, at the April 24<sup>th</sup> evidentiary hearing, the Company, Commission Staff, and the DPA presented to the Commission a proposed Settlement Agreement (the "Proposed Settlement") and proffered testimony and exhibits in support of the Proposed Settlement, attached hereto as **"Attachment A"**; and

**WHEREAS**, the Commission has reviewed the Application and heard the parties' testimony in support of the Proposed Settlement; and

**WHEREAS**, based on the testimony and exhibits presented at the April 24, 2018 evidentiary hearing, the Commission finds that the

proposed rates and tariff changes are just and reasonable and in the public interest and that the adoption of the Proposed Settlement and the avoidance of additional litigation is also in the public interest;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE  
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. The Commission approves the Proposed Settlement attached hereto as **"Attachment A"** and the rates proposed therein.

2. The approved rates, which went into effect on November 1, 2017 subject to proration and refund, are effective on a final basis as of April 24, 2018.

3. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

**BY ORDER OF THE COMMISSION:**

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Chair

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Commissioner

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Commissioner

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Commissioner

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Commissioner

ATTEST:

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Secretary

**"Attachment A"**

**Proposed Settlement Agreement**

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION )  
OF DELMARVA POWER & LIGHT )  
COMPANY FOR APPROVAL OF ) PSC DOCKET NO. 17-1013  
MODIFICATIONS TO ITS GAS )  
COST RATES (Filed August 29, 2017) )

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**PROPOSED SETTLEMENT**

Delmarva Power & Light Company ("Delmarva" or the "Company"), the Delaware Public Service Commission Staff ("Staff"), and the Division of the Public Advocate ("DPA"), individually each a "Party," and collectively, the "Parties," hereby propose a complete settlement of all issues in this proceeding ("Proposed Settlement") as follows.

**I. INTRODUCTION AND PROCEDURAL BACKGROUND**

1. On August 29, 2017, Delmarva filed an application (the "Application") with the Delaware Public Service Commission (the "Commission") to modify its Gas Cost Rate ("GCR") factors effective for usage on and after November 1, 2017, with proration, as follows: (1) revise the GCR demand and commodity charge applicable to Service Classifications Electing MVG and LVG; (2) revise the volumetrically applied GCR factors applicable to the RG, GG and GL, Service Classifications; and (3) approve the proposed Balancing Charge and Pressure Support Fee for the November 2017 – October 2018 GCR period.

2. In its Application, Delmarva proposed the following rate adjustments:

<b>Rate Schedules</b>	<b>Current</b>	<b>Proposed</b>	<b>Change</b>
RG, GG, GL, Non-electing	44.995¢/ccf	50.304¢/ccf	5.309¢/ccf
Electing LVG and MVG	\$1.7148/Mcf	\$1.9200/Mcf	\$0.2052/Mcf
Standby Service	\$1.7148/Mcf of Standby MDQ	\$1.9200/Mcf	\$0.2052/Mcf

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3. If the GCR rates proposed in the Application are approved, residential space heating customers (shown in the above chart as “RG”) using 83 ccf in a winter month will experience an increase of \$4.40, or 4.9%, in their total monthly winter bill. Customers served on Service Classification MVG will experience an increase ranging between 6.0% and 9.0% on their winter bills, depending on their load and usage characteristics. Customers served on Service Classification GG will experience an increase ranging from 1.8% to 6.6%.

4. On September 28, 2017, the Commission issued Order No. 9122, allowing the GCR factors to become effective with usage on and after November 1, 2017, with proration, on a temporary basis and subject to refund, pending evidentiary hearings and a final decision by the Commission.

5. During the course of this proceeding, the Parties conducted written discovery in the form of both informal and formal data requests.

6. Additionally, throughout the year, as well as during the proceeding, the Parties met on several occasions to discuss various issues, including hedging, natural gas markets, capacity, and other issues related to the acquisition of natural gas supply for Delmarva's natural gas customers. The Parties intend to continue these meetings on a regular

basis. Staff has also conducted monthly audits of Delmarva's GCR sales, revenues and costs.

7. The Parties have conferred and have agreed to enter into this Proposed Settlement on the terms and conditions contained herein because they believe that resolving the matter by stipulation will serve the public interest, while meeting the statutory requirement that rates be both just and reasonable. The Parties agree that the terms and conditions of this Proposed Settlement will be presented to the Commission for its approval at the evidentiary hearing scheduled for [ ], 2018.

## II. SETTLEMENT PROVISIONS

8. GCR Rates: The Parties agree that the proposed GCR rates and balancing and pressure support fees requested by Delmarva in its Application should be approved as final, subject to true-up in Delmarva's 2018-19 GCR proceeding.

### Natural Gas Hedging Program

9. The Parties agree that Delmarva will continue to execute its Gas Hedging Program in accordance with the Settlement approved in Docket No. 08-266F, and further agree to continue to hold quarterly hedge meetings to review and discuss the hedging program, and, upon consensus, make any potential modifications to the hedging program mechanics.

### Additional Upstream Pipeline Capacity

10. Staff and the DPA jointly retained Jerome D. Mierzwa, who filed Direct Testimony on behalf of Staff and the DPA. At page 7 of his Direct Testimony, Witness Mierzwa refers to Paragraph 11 of the 2016-2017 GCR Settlement Agreement (in PSC Docket No. 16-0889), which provides, in pertinent part, as follows:

...the Company will not contract for additional upstream pipeline

capacity or participate in a binding open season for such long-term capacity unless Staff and the DPA agree that the acquisition of additional capacity is reasonable.... Once the Commission issues its order rendering its findings in the 2017-18 GCR Application, the provisions of this Paragraph 11 shall automatically become null and void and have no further force or effect.

11. In his Direct Testimony, Witness Mierzwa states that, in his opinion, the requirement to first obtain Staff and DPA agreement before obtaining additional upstream capacity should be extended for at least another year.

12. The Parties agree that recent weather conditions, the effect of which were not known at the time Witness Mierzwa's Direct Testimony was developed, have changed the facts previously known by Staff, the DPA and Witness Mierzwa, such that the concerns leading to Witness Mierzwa's recommendation regarding the need for the acquisition of additional pipeline capacity have changed.

13. In Delmarva's 2017-18 Supply Plan filing, the system design day load was projected to be 179,807 mcf/d (186,100 DT), providing the Company with a capacity reserve margin of 2.05%. In the opinion of Witness Mierzwa, the existence of a 2.05% reserve margin justified extending the Staff and DPA preapproval requirement for contracts for additional upstream pipeline capacity. However, the "Bomb Cyclone" cold weather event experienced from December 27, 2017 through January 8, 2018 provided actual flow rate data points at lower temperatures than any other time in recent history. Based on the gas sendout during that period, the regression model that was previously included in the GCR filing, and upon which Witness Mierzwa appropriately relied in developing his Direct Testimony, required updating. The result of the updated study is that Delmarva's new projected design day sendout is now 191,683 mcf/d (198,392 DT), resulting in a -4.28% reserve margin.

14. The Parties agree that, due to those changed facts, it is now important for Delmarva to address the capacity resource deficiency indicated by the negative reserve margin.

15. The Parties agree to allow the restrictions set forth in Paragraph 11 of the 2016 GCR settlement agreement to expire as set forth in the terms of the 2016 GCR Settlement Agreement. Specifically, as long as any contractual arrangement Delmarva enters into in 2018 to address the capacity resource deficiency (a) does not have a term of more than two years, and (b) does not result in a projected reserve margin in excess of 2%, then Delmarva does not need to obtain agreement of Staff or the DPA prior to contracting for such additional capacity resources. Delmarva's capacity addition remains subject to review in future GCR proceedings, and Delmarva is encouraged to consult with Staff and the DPA and attempt to obtain their agreement prior to entering into any contractual arrangements to address the capacity resource deficiency.

**Returning Non-Core or Transportation Service Customers**

16. Until such time as the Commission issues an order rendering its findings on the Company's 2018-19 GCR Application, for purposes of determining whether there is sufficient natural gas supply and transmission capability to permit a non-core or transportation service customer to return to sales service, a reduction in the Company's projected capacity reserve margin to two (2) percent and less would constitute a finding that inadequate capacity is available to permit the return of non-core or transportation service customers to sales service. Once the Commission issues its order rendering its findings in the 2018-19 GCR Application, the provisions of this Paragraph shall automatically become null and void and have no further force or effect.

**III. ADDITIONAL PROVISIONS**

17. The provisions of this Proposed Settlement are not severable.

18. This Proposed Settlement represents a compromise for the purposes of settlement and shall not be regarded as a precedent with respect to any ratemaking or any other principle in any future case. No Party to this Proposed Settlement necessarily agrees or disagrees with the treatment of any particular item, any procedure followed, or the resolution

of any particular issue in agreeing to this Proposed Settlement other than as specified herein, except that the Parties agree that the resolution of the issues herein taken as a whole results in just and reasonable rates.

19. To the extent opinions or views were expressed or issues were raised in the pre- filed testimony that are not specifically addressed in this Proposed Settlement, no findings, recommendations, or positions with respect to such opinions, views or issues should be implied or inferred.

20. The Parties agree that this Proposed Settlement will be submitted to the Commission for a determination that it is in the public interest and that no Party will oppose such a determination. Except as expressly set forth herein, none of the Parties waives any rights it may have to take any position in future proceedings regarding the issues in this proceeding, including positions contrary to positions taken herein or in previous cases.

21. This Proposed Settlement will become effective upon the Commission's issuance of a final order approving it and all of its terms and conditions without modification. After the issuance of such final order, the terms of this Proposed Settlement shall be implemented and enforceable notwithstanding the pendency of a legal challenge to the Commission's approval of this Proposed Settlement or to actions taken by another regulatory agency or Court, unless such implementation and enforcement is stayed or enjoined by the Commission, another regulatory agency, or a Court having jurisdiction over the matter.

22. The obligations under this Proposed Settlement, if any, that apply for a specific term set forth herein shall expire automatically in accordance with the term specified and shall require no further action for their expiration.

23. The Parties may enforce this Proposed Settlement through any appropriate

action before the Commission or through any other available remedy. Any final Commission order related to the enforcement or interpretation of this Proposed Settlement shall be appealable to the Superior Court of the State of Delaware, in addition to any other available remedy at law or in equity.

24. If a Court grants a legal challenge to the Commission's approval of this Proposed Settlement and issues a final non-appealable order that prevents or precludes implementation of any material term of this Proposed Settlement, or if some other legal bar has the same effect then this Proposed Settlement is voidable upon written notice by any Party to the other Parties.

25. This Proposed Settlement resolves all of the issues specifically addressed herein and precludes the Parties from asserting contrary positions during subsequent litigation in this proceeding or related appeals; provided, however, that this Proposed Settlement is made without admission against or prejudice to any factual or legal positions which any of the Parties may assert (a) if the Commission does not issue a final order approving this Proposed Settlement without modifications; or (b) in other proceedings before the Commission or another governmental body so long as such positions do not attempt to abrogate this Proposed Settlement. This Proposed Settlement is determinative and conclusive of all of the issues addressed herein and, upon approval by the Commission, shall constitute a final adjudication as to the Parties of all of the issues in this proceeding.

26. This Proposed Settlement is expressly conditioned upon the Commission's approval of all of the specific terms and conditions contained herein without modification. If the Commission fails to grant such approval, or modifies any of the terms and conditions herein, this Proposed Settlement will terminate and be of no force and effect, unless the

Parties agree in writing to waive the application of this provision. The Parties will make their best efforts to support this Proposed Settlement and to secure its approval by the Commission.

27. It is expressly understood and agreed that this Proposed Settlement constitutes a negotiated resolution of the issues in this proceeding.

28. This Proposed Settlement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. If any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the person or entity executing it (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

IN WITNESS WHEREOF, intending to bind themselves and their successors and assigns, the undersigned Parties have caused this Proposed Settlement to be signed by their duly-authorized representatives.

/s/ Gary R. Stockbridge  
Delmarva Power & Light Company

By: Gary Stockbridge, Vice President

Date: 4/23/18

/s/ Andrew Slater  
Division of the Public Advocate

By: Andrew Slater

Date: 4/24/18

/s/Connie McDowell  
Delaware Public Service Commission  
Staff

By: Connie McDowell, Sr. Regulatory Policy Admin.

Date: 4/23/18